

REMARKS

In the Office Action, the Examiner rejected claims 1-9, 11-22, and 24-65. Applicants canceled claims 10 and 23 in a previous communication. By the present Response, Applicants amend claims 1 and 58 to further clarify the claimed subject matter. Upon entry of the amendments, claims 1-9, 11-22 and 24-65 will remain pending in the present patent application. Applicants respectfully request reconsideration of the above-referenced application in view of the foregoing amendments and the following remarks.

Incomplete Action

As a preliminary matter, and as repeatedly noted in Applicants' previous communications, *each claim* is independently patentable and must be addressed individually to properly account for the unique aspects recited therein. In the Office Action, the Examiner provided a blanket rejection (in a single paragraph) that summarily grouped claims 1, 7-9, 11-31, 33-44, and 46-65 together and provided an incomplete list of various subject matter recited by only some of these claims and that does not refer to any of the claims by number. *See* Office Action mailed July 9, 2008, page 2. Upon review, it appears that the present Office Action fails to provide any rationale or support for the rejection of an overwhelming majority of the dependent claims of the application, and fails to adequately address features recited in various independent claims. Because the Examiner did not specifically or substantively address the subject matter of most of the claims of the present application, Applicants respectfully assert that the wholesale rejection of the pending claims is legally deficient in view of 37 C.F.R. § 1.104. Applicants again respectfully remind the Examiner of her duties and obligations under 37 C.F.R. § 1.104 and M.P.E.P. § 707.07, and request that the Examiner either withdraw the instant rejections, or clarify her rejections and specifically cite the presently recited features in a future non-final Office Action such that Applicants may have an adequate opportunity to properly respond.

Rejections under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 1, 7-9, 11-31, 33-44, and 46-65 under 35 U.S.C. § 103(a) as unpatentable over Flynn et al. (U.S. Patent Publication No. 2003/0191509). In rejecting these fifty-six claims, the Examiner merely stated:

Flynn et al. disclose a system and method for configuring a medical device by generating a medical device database having information about a plurality of medical device components, therefore a dynamic configuration system and a configuration option available for each component therefore a component-specific data distributor and extractor [0023]. The system allows user to input data to select device components, processing the extractable component-specific configuration data extracted at each component, and configuring an electronic representation of a custom medical device based on the user-selected components and options. The system may also include a database of images corresponding to each medical device component [0012]. Flynn et al. teach said medical device database to contain information about medical device components and information about configuration options for each component, where the database includes a set of configuration rules determining the interdependencies of the components and options available for each component [0025].

Office Action mailed July 9, 2008, page 2. The Examiner also rejected claims 2-6, 32, and 45 as unpatentable over Flynn et al. in view of Schmitt (U.S. Patent No. 6,394,353). Applicants respectfully traverse these rejections.

Legal Precedent

The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (PTO Bd. App. 1979). In establishing a *prima facie* case for obviousness, “the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this

background, the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long-felt but unresolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” *KSR Int’l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1729 (2007) (quoting *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966)). It is often necessary “to look to interrelated teachings of multiple patents, the effects of demands known to the design community or present in the market place; and the background knowledge possessed by a person having ordinary skill in the art.” *Id.* This analysis should be made explicit. *Id.* (citing *In re Khan*, 441 F.3d 977, 988 (Fed. Cir. 2006)) (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”). Accordingly, to establish a *prima facie* case, the Examiner must not only show that the combination includes all of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985).

Examples of Claim Features missing from the Flynn et al. Reference

Applicants respectfully note that the Flynn et al. reference fails to disclose each element of independent claims 1, 22, 31, 40, 44, and 58. For instance, independent claim 22 recites “a configuration data broadcaster of the multi-component configuration data to the ... medical diagnostic components” (emphasis added). Independent claim 31 recites “a configuration data receiver for a distributable multi-component configuration file comprising extractable component-specific application data for a plurality of medical diagnostic components” (emphasis added). Independent claim 40 recites “means for distributing multi-component behavioral data to a plurality of medical diagnostic components” (emphasis added). Independent claim 44 recites “extracting the extractable component-specific configuration data from the distributed multi-component configuration

data *at each component of the plurality of medical diagnostic components*” (emphasis added). Independent claim 58, as amended, recites “a broadcasting multi-component configuration system adapted to provide a multi-component configuration file having extractable component-specific configuration data for a plurality of medical diagnostic components *to the plurality of medical diagnostic components*” (emphasis added). Independent claim 1, as amended, recites “a configuration data distributor of multi-component configuration data *to the plurality of medical diagnostic components*” (emphasis added) and “a component-specific data extractor of the multi-component configuration data, wherein *at least one of the medical diagnostic components ... includes the component-specific data extractor*” (emphasis added). Because the cited references fail to disclose at least such elements, the cited references cannot support a *prima facie* case of obviousness with respect to independent claims 1, 22, 31, 40, 44, and 58.

As will be appreciated by those of ordinary skill in the art, the Flynn et al. reference is generally directed to a system that allows users to select and purchase a medical device online. *See, e.g.*, Flynn et al., Abstract, FIGS. 1, 3, and 7. The system includes a database of potential components of a medical device, and allows a user to custom-build a medical device online by choosing which components and options the user desires. *See id.* at para. [0023] (“The system allows a user to input data to select device components and options for each component, and configures an electronic representation of a custom medical device based on the user-selected components and options.”).

Even assuming, for the sake of argument, that the user selection from various options during an online custom-building session could be considered to be “multi-component configuration data” or “multi-component behavioral data,” it is readily apparent that the Flynn et al. reference merely discloses sending data to an online purchasing tool. It does not disclose, teach, or hint at broadcasting such data to medical

diagnostic components or medical diagnostic components able to extract specific portions of such data (at the medical diagnostic component), as generally recited by various claims of the present application. Further, the Office Action fails to provide even a scintilla of explanation of how this reference could possibly be interpreted by one skilled in the art to contain such teachings. For at least these reasons, the Office Action has not established a *prima facie* case of obviousness with respect to independent claims 1, 22, 31, 40, 44, and 58, or their respective dependent claims.

Finally, Applicants note that each of claims 2-6, 32, and 45 depend from one of independent claims 1, 31, or 44. As discussed above, the Flynn et al. reference fails to disclose each element of these independent claims. Further, the Schmitt reference does nothing to obviate the deficiencies of the Flynn et al. reference noted above. As a result, dependent claims 2-6, 32, and 45 are allowable at least on the basis of their dependency from a respective allowable independent claim, as well as for the subject matter separately recited in these dependent claims.

For at least these reasons, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 103 and allowance of claims 1-9, 11-22, and 24-65.

Conclusion

In view of the remarks and amendments set forth above, Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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